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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/585,183

06/30/2006

Kenichi Komatsu

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EXAMINER

LY, NGHI H

ART UNIT

PAPER NUMBER

2617

MAIL DATE

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12/02/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/585,183	<b>Applicant(s)</b> KOMATSU, KENICHI	
	<b>Examiner</b> NGHI H. LY	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-10,12 and 13 is/are rejected.
- 7) ☒ Claim(s) 2,5,11 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 6-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Syrbe et al (US 2007/0149208A1) in view of An et al (US 4,726,056) and further in view of Brauel et al (US 2004/0002343A1).

Regarding claims 1 and 10, Syrbe teaches a mileage service system (see [0139]), comprising a server and a mobile communication terminal used by a user (see [0008] and [0037], see “server”), connected to each other via a network (see fig.1), the server comprising: a storing unit for storing location information of a fixed property (see [0008] and [0037]), a distance calculating unit for calculating a distance between the fixed property and the mobile communication terminal (see [0049] and [0139]), based on the location information of the fixed property and the location information of the mobile communication terminal (see [0049] and [0139]), the distance calculated by the distance calculating unit to mileage points ([0139], see “miles”. In addition, Applicant's specification at p. 15, paragraph [0049], lines 6-7, which also states “**and then issues the mileage points based on the registered travel distance**”), the mobile

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communication terminal comprising: a detecting unit for detecting the location information of the mobile communication terminal (see [0008] and [0019]).

Syrbe does not specifically disclose a converting unit for converting the distance calculated by the distance calculating unit to mileage points.

An teaches a converting unit for converting the distance calculated by the distance calculating unit to mileage points (see column 14, lines 13-15, see “*The computed **distance** is then **converted into a mileage** band from mileage band definition tables*”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of An into the system of Syrbe in order to provide a method and apparatus for calculating charges for telephone calls in real time (see An, Abstract).

The combination of Syrbe and An does not specifically disclose an obtaining unit for obtaining location information of the mobile communication terminal.

Brauel teaches an obtaining unit for obtaining location information of the mobile communication terminal (see [0032] and see Abstract, where Brauel teaches the wireless devices can determine their own location and receive location-based service).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Braeul into the system of Syrbe and An so that the communication server can use the wireless device's location information to provide location-based services and information to the wireless device (see Braeul, [0032]).

Regarding claims 4 and 13, Syrbe teaches the server comprising a fixed property information sending unit for sending location information and related information of the fixed property to the mobile communication terminal (see [0008] and [0037]), in response to a request from the mobile communication terminal and the mobile communication terminal comprising a destination information sending unit for sending location information of a desired destination to the server (see [0008] and [0037]), and a displaying unit for displaying location information and related information of the fixed property sent from the fixed property information sending unit (see [0008] and [0037]).

Regarding claim 6, Syrbe teaches the location information of the mobile communication terminal is based on location information of a mobile communication base station communicating with the mobile communication terminal (see [0049] and [0139]).

Regarding claim 7, Syrbe teaches the mobile communication base station communicating with the mobile communication terminal is specified by a mobile communication network controlling the mobile communication base station (see fig.1 and Abstract).

Regarding claim 8, Syrbe teaches the location information is latitude and longitude information and the information which the mobile communication base station possesses (see fig.1 and Abstract).

Regarding claim 9, Syrbe teaches the server comprising a managing unit for storing and managing the mileage points for each user (see [0008] and [0037]).

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3. Claims 3 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Syrbe et al (US 2007/0149208A1) in view of An et al (US 4,726,056) and further in view of Brauel et al (US 2004/0002343A1) and Yui et al (US 2002/0174077A1).

Regarding claims 3 and 12, the combination of Syrbe, An and Brauel teaches claims 1 and 10. The combination of Syrbe, An and Brauel does not specifically disclose the server comprising an authentication information receiving unit for receiving authentication information, wherein the issuing unit issues the mileage points after receiving the authentication information, and the mobile communication terminal comprising an authenticating unit for authenticating that the user arrives at a location of the fixed property of a destination and an authentication information sending unit for sending the authentication information by the authenticating unit to the server.

Yui teaches the server comprising an authentication information receiving unit for receiving authentication information, wherein the issuing unit issues the mileage points after receiving the authentication information (see [0020]), and the mobile communication terminal comprising an authenticating unit for authenticating that the user arrives at a location of the fixed property of a destination and an authentication information sending unit for sending the authentication information by the authenticating unit to the server (see [0020]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Yui into the system of Syrbe, An and Brauel in order to calculate a movable body fee according to availability (see Yui, Abstract).

***Allowable Subject Matter***

4. Claims 2, 5, 11 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 2, 5, 11 and 14 are objected for the reasons as stated in the previous Office action dated 08/14/2008 (pages 6 and 7).

***Response to Arguments***

5. Applicant's arguments filed 09/15/09 have been fully considered but they are not persuasive.

On page 8 of applicants remarks, applicant argues that "Among the limitations of independent claims 1 and 10 which are neither disclosed nor suggested in the prior art of record is a mileage service system that includes a converting unit for "converting the distance calculated by said distance calculating unit to mileage points." (Emphasis added.) See, e.g., Applicant's specification at p. 15, paragraph [0049], which states, "the issuance of the mileage points may be formulated in such a way that a multiplier of points varies depending on information providers. For example, points may be doubled." On page 3, the Office Action admits that Syrbe does not disclose a converting unit for converting the distance calculated by the distance calculating unit to mileage points".

The examiner, however, disagrees. Applicant's specification at p. 15, paragraph [0049], lines 6-7, which also states "***and then issues the mileage points based on the***

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**registered travel distance**". Therefore, Syrbe indeed teaches applicant's "*mileage points*" as claimed.

In addition, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *the issuance of the mileage points may be formulated in such a way that a multiplier of points varies depending on information providers. For example, points may be doubled*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### **Conclusion**

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (571)272-7911. The examiner can normally be reached on 9:30am-8:00pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nghi H. Ly

/Nghi H. Ly/  
Primary Examiner, Art Unit 2617